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III, INC.; COMCAST OF CALIFORNIA IX, INC.;  
COMCAST OF CALIFORNIA V, INC.; COMCAST  
OF CALIFORNIA VI, INC.; COMCAST OF  
CALIFORNIA X, INC.; COMCAST OF CALIFORNIA  
XIII, INC.; COMCAST CORPORATION; COMCAST  
OF FRESNO, INC.; COMCAST OF MARIN I, INC.;  
COMCAST OF MARIN II, INC.; COMCAST OF  
NORTHERN CALIFORNIA I, INC.; COMCAST OF  
NORTHERN CALIFORNIA II, INC.; COMCAST OF  
SACRAMENTO I, LLC; COMCAST OF  
SACRAMENTO II, LLC; COMCAST OF SAN  
LEANDRO, INC.; COMCAST OF SIERRA  
VALLEYS, INC.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

JON HART, On Behalf of Himself and All Others  
Similarly Situated, and On Behalf of the General Public,

Plaintiff,

v.

COMCAST OF ALAMEDA, INC., *et al.*,

Defendants.

Case No. C 07-6350 PJH

**RESPONSE TO THE COURT'S  
STANDING ORDER REGARDING  
REMOVED CASES**

Defendants,<sup>1</sup> by and through undersigned counsel, state as follows in accordance with the  
Court's Standing Order Regarding Removed Cases.

<sup>1</sup> Comcast of Alameda, Inc., Comcast of California II, Inc., Comcast of California III, Inc., Comcast of California IX, Inc., Comcast of California V, Inc., Comcast of California VI, Inc., Comcast of California X, Inc., Comcast of California XIII, Inc., Comcast Corporation, Comcast of Fresno, Inc., Comcast of Marin I, Inc., Comcast of Marin II, Inc., Comcast of Northern California I, Inc., Comcast of Northern California II, Inc., Comcast of Sacramento I, LLC, Comcast of Sacramento II, LLC, Comcast of San Leandro, Inc., and Comcast of Sierra Valleys, Inc. (collectively, "Comcast").

1 As an initial matter, Comcast removed this action under the Court's federal question  
 2 jurisdiction, as well as diversity jurisdiction pursuant to the of the Class Action Fairness Act of  
 3 2005 (CAFA), Pub. L. No. 109-2, 119 Stat. 4 (2005). CAFA changed the requirements for  
 4 traditional diversity jurisdiction and altered traditional removal practice in a number of  
 5 significant ways, including but not limited to the following:

6 A. CAFA eliminated the traditional requirement that all defendants consent to  
 7 removal. *See* 28 U.S.C. § 1453(b) ("A class action . . . may be removed by any defendant  
 8 without the consent of all defendants.").

9 B. CAFA expanded traditional diversity jurisdiction to include putative class actions  
 10 in which there is minimal diversity, thereby eliminating the traditional requirement of complete  
 11 diversity. *See* 28 U.S.C. § 1332(d)(2) ("The district courts shall have original jurisdiction of any  
 12 civil action in which . . . any member of a class of plaintiffs is a citizen of a State different from  
 13 any defendant."). In CAFA cases, the citizenship of the putative class is determined "as of the  
 14 date of the filing of the complaint," 28 U.S.C. § 1332(d)(7), and is based on the citizenship of all  
 15 of the putative class members, i.e., "the persons (named or unnamed) who fall within the  
 16 definition of the proposed or certified class in a class action." 28 U.S.C. § 1332(d)(1)(D).

17 C. CAFA eliminated the traditional prohibition of removal when a defendant is a  
 18 citizen of the state in which the action was filed. *See* 28 U.S.C. § 1453(b) (permitting removal  
 19 "without regard to whether any defendant is a citizen of the State in which the action is  
 20 brought.").

21 D. CAFA provides that the citizenship of unincorporated associations such as limited  
 22 liability companies and partnerships is determined as if they were corporations, making  
 23 traditional inquiries into the citizenship of their members or partners unnecessary. *See* 28 U.S.C.  
 24 § 1332(d)(10) ("For purposes of this subsection and Section 1453, an unincorporated association  
 25 shall be deemed to be a citizen of the State where it has its principal place of business and the  
 26 State under whose laws it is organized.").

27 Accordingly, much of the information requested by the Court's Standing Order  
 28 Regarding Removed Cases does not appear to be applicable to actions that are removed at least

1 in part pursuant to CAFA. Nevertheless, Comcast states as follows:

2 1. All Defendants served at the time of removal joined in and therefore consented to  
3 the notice of removal.

4 2. The notice of removal was not dated more than thirty (30) days after the first  
5 defendant was served. No Defendant was served with the Complaint before November 15, 2007.  
6 The notice of removal was filed on December 14, 2007, twenty-nine (29) calendar days later.

7 3. The following Defendants are citizens of California: Comcast of Alameda, Inc.,  
8 Comcast of California II, Inc., Comcast of California III, Inc., Comcast of California IX, Inc.,  
9 Comcast of California V, Inc., Comcast of California VI, Inc., Comcast of California X, Inc.,  
10 Comcast of California XIII, Inc., Comcast of Fresno, Inc., Comcast of Marin I, Inc., Comcast of  
11 Marin II, Inc., Comcast of Northern California I, Inc., Comcast of Northern California II, Inc.,  
12 Comcast of Sacramento I, LLC, Comcast of Sacramento II, LLC, Comcast of San Leandro, Inc.,  
13 and Comcast of Sierra Valleys, Inc. For purposes of CAFA jurisdiction, the citizenship of the  
14 members of the unincorporated Defendants (i.e., Comcast of Sacramento I, LLC and Comcast of  
15 Sacramento II, LLC) is not relevant. *See supra*; *see also* 28 U.S.C. § 1332(d)(10).

16 4. The named Plaintiff contends he is a citizen of California. *See* Pl.'s Compl. ¶ 5  
17 ("Plaintiff John Hart is a citizen of the State of California."). The putative class includes citizens  
18 of California such as the Plaintiff and citizens of other states who are temporarily located "in,"  
19 but are not domiciled in, California. *See id.* ¶ 30 (defining putative class as "all persons in  
20 California who purchased the Service between November 13, 2003 and the present and used or  
21 attempted to use peer-to-peer or online file sharing applications and/or lotus notes."); *see also*  
22 *Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 828 (1989).

23 Defendant Comcast Corporation is a citizen of Delaware and Pennsylvania because it is a  
24 Delaware corporation with its principal place of business in Pennsylvania. *See* 28 U.S.C. §  
25 1332(c)(1). The Defendants that are California citizens are listed above. *See supra* ¶ 3.

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1 Minimal diversity therefore exists in this action because the putative class includes  
2 citizens of states other than California and, alternatively, because at least one Defendant is not a  
3 citizen of California.  
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5

6 Dated: December 26, 2007

DRINKER BIDDLE & REATH LLP

7  
8 /S/

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